



Appeal Decision

Site visit made on 10 March 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2020

Appeal Ref: APP/B4215/W/19/3240921

29 Longford Road, Chorlton Cum Hardy, Manchester M21 9WP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Paul Corris against the decision of Manchester City Council.
- The application Ref 123515/FH/2019, dated 7 May 2019, was approved on 11 September 2019 and planning permission was granted subject to conditions.
- The development permitted is described as: 'Erection of a two storey side extension, and part single part two storey rear extension and new boundary walls top rear garden following demolition of existing fence'.
- The condition in dispute is No 6 which states that: '*Before first occupation of the extensions approved, the windows to the side elevation facing 31 Longford Road shall be obscure glazed to a specification of no less than level 5 of the Pilkington Glass Scale or such other alternative equivalent and shall remain so in perpetuity*'.
- The reason given for the condition is: '*To protect the amenity and living conditions of adjacent residential property from overlooking or perceived overlooking and in accordance with policies SP1 and DM1 of the Core Strategy*'.

Decision

1. I allow the appeal, and modify the planning permission Ref 123515/FH/2019 (the planning permission) for the erection of a two storey side extension, and part single, part two storey rear extension and new boundary walls to rear garden following demolition of existing fence at 29 Longford Road, Chorlton Cum Hardy, Manchester M21 9WP, by adding an additional Condition (No. 7) and deleting Condition No. 6 and substituting it with the following condition:

6) Before first occupation of the extensions approved, the first-floor window in the side elevation of the proposed development facing No 31 Longford Road shall be obscure glazed to a specification of no less than level 5 of the Pilkington Glass Scale or equivalent, and shall then be maintained and retained in perpetuity.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows / openings, other than those expressly authorised by this permission shall be constructed on the side elevation of the proposed development facing No 31 Longford Road.

Procedural Matters

2. For clarity and precision, I have inserted 'Chorlton Cum Hardy' into the address in the banner heading above as it is listed on the appeal form.
3. Both main parties were given the opportunity to provide comments with regards to the first-floor window located in the elevation of the proposed development that would face No 31. Comments from the Council were received

and taken into consideration. I will, therefore, not prejudice either party in taking the proposed first-floor window that would face No 31 into account when determining this appeal.

Main Issue

4. The main issue is whether the condition is reasonable or necessary in the interests of the living conditions of the adjoining neighbouring occupier at No 31, with particular regard to privacy.

Reasons

5. The appeal seeks removal of Condition no.6 on the Council's decision notice, which relates to a requirement to install obscure glazing in the windows of the side elevation of the proposed development facing No 31. On the evidence before me, the proposal would involve the installation of 2no. windows in the elevation facing No 31, the 'feature window' (the ground floor window) at ground floor and the side panel of the corner window at first floor. I find that both of these areas of glazing would be covered under Condition no.6 of the planning permission.
6. Paragraph 55 of the National Planning Policy Framework (the Framework) says planning conditions should be kept to a minimum and only be imposed where, amongst other matters, they are necessary and reasonable. More guidance is given in the Planning Practice Guidance (PPG). PPG paragraph 002¹ states that Section 70(1) of the Act enables the local planning authority to impose 'such conditions as they think fit'. This power must be interpreted in the light of material factors such as the Framework, the PPG, and relevant case law.
7. PPG paragraph 003² sets out the 6 tests for conditions. They must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. Furthermore, the PPG is clear that any proposed condition that fails to meet one of the 6 tests should not be used.
8. The proposed ground floor window would directly face the shared boundary with No 31. I note that the proposed kitchen / dining area is likely to have the same floor level as the lounge, which is currently 3no. brick courses above the outside ground level. Serving the existing lounge is a glazed porch with double doors, where I also viewed the location of the proposed ground floor window and the effectiveness of the screening present on the shared boundary with No 31. I acknowledge that it is the intention of the appellant to construct a new boundary wall with wooden horizontal slats above. However, even if this element of the proposal was not forthcoming, I still find that the existing fence would provide suitable mitigation to preserve the living conditions of the occupiers of No 31 against any loss of privacy from the proposed ground floor window.
9. However, with regards to the side section of the proposed corner window at first floor, I consider that this window would enable the occupiers of the host property to overlook the private amenity space at No 31. Thus, I could not support the removal of the obscure glazing condition in its entirety, as such an action would create significant harm to the living conditions of the occupiers of

¹ Paragraph: 002 Reference ID: 21a-002-20190723

² Paragraph: 003 Reference ID: 21a-003-20190723

No 31, contrary to the living condition aims of Policies SP1 and DM1 of the Council's Core Strategy 2012. Additionally, I find that in order to ensure that the living conditions of the occupiers of No 31 are protected, it is necessary to impose a condition to restrict the ability to install any further windows or openings in the side elevation of the proposed development facing No 31.

Conclusion

10. For the reasons given above, I therefore find that Condition no.6 does not meet the requirements of the guidance contained in the PPG. As such, I conclude that Condition no.6 is not reasonable having regard to local and national policy, and the appeal should succeed, but only in respect of removing the requirement to install obscure glazing to the proposed ground floor window facing No 31. As a result, I will modify the planning permission by deleting the disputed condition, substituting it and adding a further condition as outlined above.

W Johnson

INSPECTOR